

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Gloria Valladolid,

Complainant,

vs.

Southern California Edison Company
(U338E),

Defendant.

(ECP)

Case 14-09-019

(Filed September 25, 2014)

Gloria Valladolid, for herself, Complainant.Prabha Cadambi for Southern California Edison
Company, Defendant.**DECISION DENYING RELIEF IN PART****Summary**

Complainant, Gloria Valladolid (Ms. Valladolid), requests that her Smart Meter opt-out fees be terminated. Ms. Valladolid also requests a refund of \$75.00 for a one-time, opt-out charge and a monthly \$10 charge since she opted out of the smart meter program. Southern California Edison Company (SCE) maintains that the opt-out fees charged to Complainant are appropriate and SCE has complied with all applicable rules, laws, and tariffs in servicing the Complainant. We conclude that Complainant failed to demonstrate that SCE has violated any applicable Commission rule, law or mandated tariff. However, in Decision 14-12-078, the Commission limited the collection of the monthly charge from residential opt-out customers to three years from the date they choose to opt-out.

Ms. Valladolid obligations to pay the Smart Meter opt-out fee will end in September 2015. The request for relief is denied in part and the case is closed.

1. Complainant's Contention

The Complainant resides in Arcadia, CA. Ms. Valladolid states that she is a Southern California Edison Company (SCE) customer who opted out of SCE's SmartConnect Program. Ms. Valladolid claims that she was charged a one-time \$75.00 opt-out fee and a recurring monthly \$10.00 opt-out fee to continue using her analog meter instead of using a wireless smart meter.

Ms. Valladolid asserts that the one-time \$75.00 opt-out fee and the \$10.00 monthly fees are unreasonable and both charges should be refunded. In addition, Ms. Valladolid asserts that the \$10.00 monthly fee should cease. Ms. Valladolid contends that the one-time \$75.00 opt-out fee should be refunded because the analog meter installed at her residence did not have to be removed.

Ms. Valladolid contends that the Commission "permits only appropriate, reasonable costs and not already-being recovered rates."¹ She contends that the \$10.00 monthly fee paid should be refunded because SCE has acquired savings by virtue of having to employ fewer meter readers and has previously recovered costs through their rates.

Ms. Valladolid contends that the one-time \$75.00 opt-out fee and the \$10.00 recurring monthly fee are against public policy because it allows SCE to have an opt-out program that charge opt-out customers additional fees to continue using their analog meter.

¹ Ms. Valladolid Complaint at 2, § F.

2. Defendant's Contention

SCE contends that the Complainant's claim is without merit and the fees charged are reasonable and should not be refunded to the Complainant. SCE asserts that Complainant has been a customer of record, at her current address, since July 1994. SCE states that on June 30, 2012, Complainant contacted SCE to opt-out of the smart meter installation on her property. SCE states that it notified Ms. Valladolid of the required \$75.00 one-time fee and required recurring \$10.00 monthly fee to opt-out of the SmartConnect Program. SCE indicates that on September 18, 2012, Ms. Valladolid's account was billed for the \$75.00 opt-out fee. SCE states that the Complainant's account has subsequently been billed for the \$10.00 opt-out fee each month, pursuant to applicable tariff.

SCE asserts that it has complied with all applicable rules, regulations, and tariffs. SCE contends that Decision (D.) 12-04-018 settled the issue of whether to implement a smart meter opt-out charge and the reasonableness of the amount charged to customers. The Decision stated that moving away from analog meters "incur[s] costs such as purchasing and maintaining two different types of meters, the monthly cost of reading a non-communicating meter, and the development of duplicate back office systems...[C]ustomers electing the opt-option shall be responsible for costs associated with providing the option."² In addition, SCE contends the one-time \$75.00 fee and the \$10.00 monthly fees were adopted in SCE's Schedule that became effective on May 4, 2012.³ SCE asserts that it has followed the schedule appropriately.

² D.12-04-018 at 2.

³ Schedule ESC-OO, Edison SmartConnect Opt-Out, available at <https://www.sce.com/NR/sc3/tm2/pdf/ce349.pdf>.

SCE contends that Complainant did not follow the correct procedure to bring forth an individual customer Complaint against SCE regarding the reasonableness of SCE's utility rates or charges. SCE asserts that Complainant did not follow the Public Utilities Code Section 1702 and Commission's Rule of Practice and Procedure (Rule) 4.1(b):

No complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless it be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers or purchasers of such gas, electric, water, or telephone service.

SCE asserts that it has followed all the applicable rules and tariffs and has billed the Complainant appropriately. In addition, SCE contends that the Complainant cannot bring a complaint because she has not satisfied the applicable Public Utilities Code and the Commission's Rule of Practice and Procedure.

Therefore, SCE asserts that Complainant's request for a refund should be denied.

3. Discussion

At the hearing held in this matter on October 28, 2014, Ms. Valladolid argued that she should not be charged the one-time \$75.00 opt-out fee and the monthly \$10.00 opt-out fee regarding smart meters. Ms. Valladolid argued that she should not have been charged any fees for opting out of the smart meter program because SCE did not physically remove her meter and SCE has acquired savings by not having to employ as many meter readers as before. In addition,

Ms. Valladolid argued that the opt-out fees are against public policy because costs have been previously recovered from rates.

SCE argued that D.12-04-018 supports the SmartConnect Program and the reasonableness of opt-out fees. SCE argued that the Decision found that SCE incurred additional costs by allowing customers to opt-out of the SmartConnect Program and that SCE could recover those costs in additional opt-out fees.⁴ In addition, SCE argued that Schedule ESC-OO allowed SCE to collect opt-out fees and has been following the schedule appropriately. SCE also argued that the Complainant did not properly follow the Public Utilities Code and the Commission's Rules of Practice and Procedure for properly submitting an individual customer Complaint regarding the reasonableness of any utility rates or charges.⁵

The testimony, evidence and applicable tariffs all support SCE's contention that it has acted properly in this matter. D.12-04-018 requires that customers wishing to opt-out of SCE's SmartConnect Program must pay a \$75.00 one-time fee and a recurring \$10.00 monthly fee. The Complainant has not demonstrated that SCE violated any applicable rule, law, or tariff in charging her opt-out fees for continuing to use her analog meter. In addition, Complainant did not provide any evidence satisfying Public Utilities Code Section 1702 and Rule 4.1(b), in order to properly file a Complaint with the Commission regarding the reasonableness of any utility rates or charges.

On December 23, 2014, the Commission issued D.14-12-078. The decision adopts fees and charges for residential customers in the service territories of

⁴ D.12-04-018 at 8.

⁵ Public Utilities Code Section 1702 and Rule 4.1(b).

Pacific Gas and Electric Company, SCE , San Diego Gas & Electric Company, and Southern California Gas Company who do not wish to have a wireless Smart Meter.⁶ In the Decision the Commission limited the collection of the monthly charge from residential opt-out customers to three years from the date they choose to opt-out. The remaining portion of revenue requirements that exceed the revenues collected from the opt-out charges are to be allocated to the residential customer class as a whole.⁷

Ms. Valladolid's account was first billed for the Smart Meter opt-out fee in September of 2012. As indicated supra, in D.14-12-078, the Commission limited the collection of the monthly charge from residential opt-out customers to three years from the date they choose to opt-out. In September of 2015, Ms. Valladolid will have been paying the SmartConnect Program opt-out fees for three years. In conformance with D.14-12-078, Ms. Valladolid's obligation to continue to pay the \$10.00 per month recurring opt-out fee will end in September of 2015.

The Complainant's request for immediate direct relief and a refund of past opt-out fees is denied but her opt-out fees will end in September of 2015 in conformance with D.14-12-078. The case is closed.

4. Waiver of Comment Period

Pursuant to Rule 14.7(b), the 30-day public review and comment period required by Section 311 of the Public Utilities Code and the opportunity to file comments on the proposed decision is not applicable in Expedited Complaint Proceedings. Accordingly, this matter was placed on the Commission's agenda directly for prompt action.

⁶ D.14-12-078 at 5.

⁷ *Id.* at 5.

5. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and W. Anthony Colbert is the assigned Administrative Law Judge and Presiding Officer in this proceeding.

O R D E R

IT IS ORDERED that:

1. Pursuant to our Decision in D.14-12-078, Southern California Edison Company shall collect the monthly charge from residential customers who opt-out of the SmartConnect Program for a period of three years from the date the customer chooses to opt-out.

2. Complainant must continue to pay the \$10.00 opt-out fee until September of 2015 at which point the fee will be extinguished.

3. All other requests for relief are denied.

4. Case 14-09-019 is closed.

This order is effective today.

Dated _____, at San Francisco, California.